

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

IN RE COLUMBIA UNIVERSITY  
PATENT LITIGATION

MDL No. 1592 (MLW)

This Document Relates To All Actions

**DECLARATION OF DAVID I. GINDLER IN SUPPORT OF COLUMBIA  
UNIVERSITY'S CONSOLIDATED REPLY MEMORANDUM IN SUPPORT OF  
EMERGENCY MOTION TO DISMISS FOR LACK OF SUBJECT MATTER  
JURISDICTION**

I, David I. Gindler, declare as follows:

1. I am a partner at the law firm of Irell & Manella LLP and counsel of record for The Trustees of Columbia University in the City of New York ("Columbia"). I am a member in good standing of the State Bar of California. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. Attached hereto as Exhibit A are true and correct copies of pages from the transcript of the September 9, 2004 telephonic hearing in this action.

3. Attached hereto as Exhibit B is a true and correct copy of an opinion in *The Trustees of Columbia University in the City of New York v. Roche Diagnostics GmbH, C.A.* No. 93-11512-NG (D. Mass. Sept. 30, 2002).

4. Attached hereto as Exhibit C is a true and correct copy of a CourtLink printout of the docket for *The Trustees of Columbia University in the City of New York v.*

*Genetics Institute, Inc.*, No. 90cv677, filed in the District of Delaware on November 20, 1990 and closed November 12, 1991.

5. Attached hereto as Exhibit D are true and correct (redacted) copies of two pages of the license agreement between Columbia and Genetics Institute.

6. Attached hereto as Exhibit E are true and correct (redacted) copies of two pages of the license agreement between Columbia and Genetics Institute.

7. Attached hereto as Exhibit F is a true and correct copy of United States Patent No. 5,149,636.

8. Attached hereto as Exhibit G is a true and correct copy of a letter dated March 9, 2004 from Columbia to Wyeth and Genetics Institute.

9. Attached hereto as Exhibit H is a true and correct copy of a letter dated September 3, 2004 from counsel for Columbia to the Court.

10. Attached hereto as Exhibit I is a true and correct copy of a letter dated September 17, 2004 from counsel for Columbia to counsel for Johnson & Johnson.

Executed on September 28, 2004, at Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ David I. Gindler

David I. Gindler